

Management of Historic Ships and Aircraft Sites

Collecting, or the desire to keep souvenirs, has its roots in mankind's earliest thoughts. The reasons for collecting are as varied as the collectors themselves. For many people the thrill of collecting is having a piece of history. Souvenirs connected with aviation history are not exempt from a collecting interest. Aviation artifacts from military aircraft, "warbirds," have an increasing monetary value, making them real "treasure" and the target of intensive looting efforts. For some collectors, the lure of treasure can be too much to resist. Some collectors reason that souvenirs are there for the taking and believe that no one would notice or care. Not all looters are the same. Many do not know the law and do not realize that removing material from military wrecks is illegal. Some loot intentionally figuring that they will not be caught. But looting a military crash site is illegal, can be very dangerous, and is an avaricious waste of important cultural resources.

In 1993, the Naval Historical Center (NHC) initiated an archeological management program for its historic ship and aircraft wreck sites, both on land and underwater. This program was aided in part by the U.S. Department of Defense Legacy Resource Management Program that was established by Congress in 1991. The NHC's Office of Underwater Archaeology is the U.S. Navy command responsible for managing these sites. Under the National Historic Preservation Act, the Navy is obligated to protect historic properties, including ship and aircraft wrecks, for which it has custodial responsibilities. Navy custody of its wrecks is based on the property clause of the U.S. Constitution and international maritime law, and is consistent with Articles 95 and 96 of the Law of the Sea Convention. These laws establish that right, title, or ownership of Federal property is not lost to the Government due to the passage of time. Navy ships and aircraft cannot be abandoned without formal action by Congress. Ships and aircraft

stricken from the active inventory list are not considered formally disposed or abandoned. Under the sovereign immunity provisions of admiralty law, the Navy retains custody of its vessels and aircraft, whether lost in United States, foreign, or international boundaries. The Navy upholds the rights of foreign nations to their vessels in U.S. territorial waters as well.

The Government's claim that only by express act of Congress can military ship and aircraft wrecks be abandoned was recently upheld in July 2000. In *International Aircraft Recovery, L.L.C., a Nevada Limited Company v. the Unidentified, Wrecked and Abandoned Aircraft, intervenor United States of America*, the Government won its claim of ownership of a wrecked TBD Devastator off the coast of Florida. The TBD Devastator was the Navy's first all-metal, folding-wing monoplane, produced in the late 1930s. Most TBDs were lost in the Pacific battle of Midway in 1942, when the Navy lost whole squadrons. At the time of its discovery the TBD off Florida was the only TBD in existence. Since that time several more have been discovered. This particular TBD is thought to have survived both the battles of Coral Sea and Midway. Its identity is still not certain.

The Navy encourages the study and preservation of its historic ship and aircraft sites. Divers may explore Navy wrecks, at their own risk, but they are encouraged to report the location of newly rediscovered sites to allow the Navy to evaluate and preserve these important remnants of our collective past. The Navy has also initiated a permitting policy for archeological study and responsible removal. The Navy believes that permitting is the best way to ensure that a maximum of information and material can be saved for future generations.¹ Under no circumstances may salvage of Navy aircraft or shipwrecks be undertaken without permit.

Beyond protecting the Navy's ownership rights, there are other problems associated with illegal tampering. All military wrecksites are dan-

gerous. Military ships and aircraft were built to fight. These vessels carried more external equipment than civilian craft, which can entangle divers. More importantly, however, the vessels also carried live ordnance. As unexploded munitions corrode they become increasingly unstable. It is extremely dangerous to move, remove, or physically investigate these time bombs without the right equipment and expertise. Often munitions will be obscured under marine growth and the first sign of disaster will be evident when someone taps a bomb to see what it is.

There are other less dangerous consequences from looting military wrecksites. Removal of pieces or whole sites to add to someone's personal collection restricts others from discovering or learning about history that belongs to everyone. This is especially true if the collector does not know how to preserve and protect the material for the long term. This activity destroys a finite resource, damaging a site, making interpretation less accurate. Not only is material lost, but any information that a site might have held or could have contributed to understanding the site and others like it is irretrievably lost. Indiscriminate removal could also disturb war graves.

Illegal salvage of cultural heritage is a major concern for all cultural resource managers. Illegal salvage, or looting, will always be a problem as long as there are assets that are not under constant surveillance. Because NHC is responsible for thousands of sites, policing every site all of the time is impossible. Therefore, NHC focuses on deterrence, preferring to be proactive rather than reactive whenever possible.

NHC's proactive stance can take several forms. No two situations are alike, so every situation must be handled with diplomacy and most situations can be resolved without litigation.

Because many people are unaware that removing or disturbing wrecksites is illegal, NHC's first goal is education. NHC is a center for research and scholarly writing. In this setting, the staff compiles data about sites, assesses their environment and the threats to their protection and preservation, and looks for ways to creatively manage sites in the public's best interest. The Underwater Archaeology Branch at NHC collects information on wrecksites to gain a better understanding of how to manage this vast responsibility. This work in progress includes over 3,000 shipwrecks and 14,000 aircraft wrecksites world-

wide. Proper education can convince potential looters of the need to protect and preserve the tangible remnants of our collective past. When divers and aviation buffs understand the role that they can play in conserving sites and aircraft, they represent a large corps of volunteers who can spread the preservation message and help to protect sites from illegal tampering.

Another avenue for education is NHC's Website, which reaches millions with information on the Navy's policies and procedures as well as information about sites. In addition, NHC staff publishes articles, talks to school and civic groups, and continually strives to work closely with other cultural resources managers in educating the public. Occasionally, however, education and prevention are not successful, and intervention is necessary to ensure that looted items are returned.

The intervention of Naval, State, and Federal law enforcement investigators usually results in the return of Navy property. Because situations and the individuals involved vary, it would be inappropriate to use the same response for all. This is where diplomacy becomes paramount. The Government usually attempts to work with an individual based on the circumstances and the individual's willingness to cooperate. For instance, in early 2000 NHC was notified that a Revolutionary War bronze swivel gun was offered on the online auction site eBay. NHC notified the U.S. Justice Department, which in turn contacted eBay requesting the identity of the seller and received full cooperation. The Justice Department then notified the seller that he was attempting an illegal sale. The seller was told to cease and desist in his activities and was asked to return the property to the U.S. Government. Although the seller had purchased the gun at a gun show and had not been the one to remove it from its site, the seller was most cooperative and brought the gun to NHC. Within months the gun was placed on loan to the Lake Champlain Maritime Museum not far from where it was found. A similar situation occurred several months later with an historic Navy painting for sale on eBay.

Another example in the early 1990s involved an F6F Hellcat found off of the New England coast. A group of local aviation enthusiasts reported the find to NHC so that they could recover it for their museum. The Navy felt that the finders were ill-equipped to handle the recov-

ery safely and stabilize an aircraft retrieved from salt water, both of which are costly and time-consuming endeavors. Their request was denied. The group proceeded to recover the aircraft despite the denial and severely damaged the aircraft. Although a lawsuit was threatened, the Government was able to resolve the matter equitably by allowing the museum to borrow the Hellcat for display in a long-term loan from the Navy. The museum agreed to be responsible for conservation and restoration, which, although a lengthy procedure, is steadily progressing.

Rarely, a situation will result in litigation, as in such cases as the TBD Devastator previously mentioned, recovery of the bell from CSS *Alabama*,² and illegal recovery of a military aircraft from an underwater crash site.³ In cases of litigation, NHC does not prosecute, but is represented by the Department of Justice, usually with the assistance of others including the Office of the Judge Advocate General and the Naval Criminal Investigative Service.

Before anything can be done about looting of a Navy site, NHC must be made aware that a crime has occurred or is about to occur. Information is acquired through a network of sources. Cultural resource managers, both State and Federal, often notify NHC of potential problems. Occasionally online auction houses place Navy material up for sale where someone sees it and notifies authorities. Sometimes a salvor's

competitor will inform NHC of something being planned or actually being done illegally.

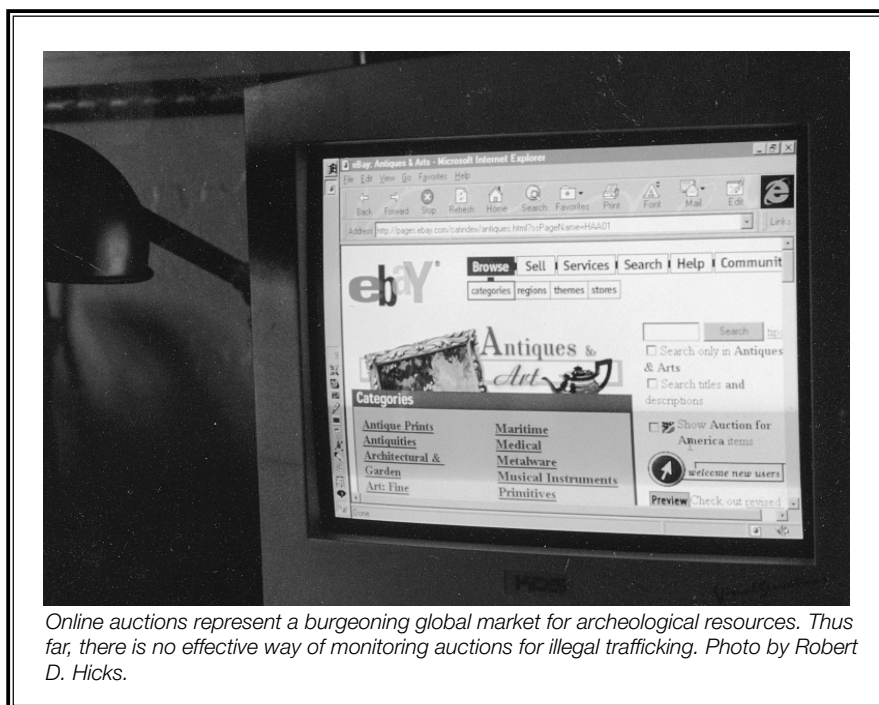
Cooperation is vital, and NHC appreciates any assistance offered. NHC relies on Federal, State, and local law enforcement as well as cultural resource managers at every level. NHC can, in return, offer guidance in dealing with similar situations. NHC seeks to educate divers and collectors in the ethics of protecting fragile finite resources.

Notes

- ¹ The permitting policy has been published in the Code of Federal Regulations as 32 CFR 767.
- ² *United States v. Richard Steinmetz*, 1992.
- ³ *United States v. Peter Theophanis*, 1995. The case was lost because the Navy thought that a protected aircraft had been recovered, based on the unique Bureau of Aeronautics Number, but the aircraft had been misidentified. Theophanis recovered a military aircraft, but not the one with the number cited.

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For more information about the Navy's policies and procedures with regard to historic ship and aircraft wrecksites, please visit the <www.history.navy.mil> Website. A policy fact sheet, which lists all applicable Federal laws and regulations, is available in the Underwater Archaeology Branch section of the Website.



Online auctions represent a burgeoning global market for archeological resources. Thus far, there is no effective way of monitoring auctions for illegal trafficking. Photo by Robert D. Hicks.